

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

GENERO BASURTO and MARISOL	)	
AGUILAR, as Next Friends of KARINA	)	
BASURTO, a Minor,	)	
	)	CIVIL ACTION NO.
Plaintiffs,	)	
	)	3:07-CV-0174-G
VS.	)	
	)	ECF
MERVYN'S, LLC, ET AL.,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION AND ORDER**

This case was removed from a state district court on the basis of diversity of citizenship. Notice of Removal at 2-3.

The plaintiffs are residents of Texas.\* *Id.* at 2. The removing defendant is Mervyn's LLC. *Id.* at 1. Mervyn's LLC is a limited liability company organized

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\* Apparently, the removing defendant -- while it desires a federal forum -- is unaware that to obtain a federal forum requires pleading and proof of citizenship, rather than residence. *Strain v. Harrelson Rubber Co.*, 742 F.2d 888, 889 (5th Cir. 1984) ("It is established that an allegation of residency does not satisfy the requirement of an allegation of citizenship.").

under the laws of the state of California, with its principal place of business in Hayward, California. *Id.* at 3.

Limited liability companies are treated the same as partnerships for diversity jurisdiction purposes, and therefore courts look to the citizenship of each member of the company to determine if complete diversity of citizenship of citizenship exists. *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998); *GMAC Commercial Credit LLC v. Dillard Department Stores, Inc.*, 357 F.3d 827, 829 (8th Cir. 2004). Unlike a corporation, a limited liability company is not a citizen of the state in which it was organized unless one of its members is a citizen of that state. *JMTR Enterprises, L.L.C. v. Duchin*, 42 F. Supp.2d 87, 92-93 (D. Mass. 1999); *Hale v. MasterSoft International Pty. Ltd*, 93 F. Supp.2d 1108, 1112 (D. Colo. 2000).

The court has an obligation to examine its subject matter jurisdiction, on its own motion if necessary. *American Motorists Insurance Co. v. American Employers' Insurance Co.*, 600 F.2d 15, 16 (5th Cir. 1979). Mervyn's, as the party seeking a federal forum, has the burden of establishing that jurisdiction. *Ray v. Bird & Son & Asset Realization Co., Inc.*, 519 F.2d 1081, 1082 (5th Cir. 1975).

Accordingly, Mervyn's shall file and serve, within ten days of this date, an amended notice of removal setting forth (1) the citizenship of the plaintiffs and (2) the name and citizenship of each member of Mervyn's, LLC. Failure to timely file

and serve such an amended notice of removal will result in remand of this case to the state court from which it was removed.

**SO ORDERED.**

January 30, 2007.

  
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A. JOE FISH  
CHIEF JUDGE